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OCT 16 2013

THURSTON COUNTY SUPERIOR COURT  
CLERK

STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,  
  
Plaintiff,  
  
v.  
  
GROCERY MANUFACTURERS  
ASSOCIATION,  
  
Defendant.

NO. 13-2-02156-8  
COMPLAINT FOR CIVIL  
PENALTIES AND FOR  
INJUNCTIVE RELIEF FOR  
VIOLATIONS OF RCW 42.17A

I. NATURE OF ACTION

The State of Washington ("State") brings this action to enforce the state's campaign finance disclosure law, RCW 42.17A. The State alleges that Defendant Grocery Manufacturers Association ("GMA") violated provisions of RCW 42.17A by 1) soliciting and receiving contributions and making expenditures to oppose Initiative 522 without properly registering and reporting as a political committee, 2) failing to identify a treasurer for the political committee, 3) failing to identify a depository for funds collected by the political committee, and 4) concealing the true source of the contributions received and made by Defendant GMA. The State seeks relief under RCW 42.17A.750 and .765, including penalties, costs and fees, and injunctive relief.

## II. VENUE AND JURISDICTION

1. This Court has jurisdiction over Defendant GMA, pursuant to RCW 42.17A, and the Attorney General has authority to bring this action on behalf of the State of Washington pursuant to RCW 42.17A.765 and RCW 42.17A.750.
2. Defendant GMA carried out the violations alleged in this complaint, in whole or in part, in Thurston County, Washington.
3. Venue is proper in Thurston County Superior Court pursuant to RCW 4.12.

## III. PARTIES

4. Plaintiff is the State of Washington. Acting through the Washington State Public Disclosure Commission, Attorney General, or local prosecuting attorney, the State enforces the state campaign finance disclosure laws contained in RCW 42.17A.
5. Defendant Grocery Manufacturers Association is an association of food, beverage, grocery, and consumer products manufacturers located in Washington, D.C. that solicited funds from its members to, in part, make contributions and expenditures to oppose Initiative 522.

## IV. FACTUAL ALLEGATIONS

### Initiative 522

6. On June 29, 2012, Chris and Leah McManus submitted Initiative 522 to the Washington State Secretary of State. As identified by the Secretary of State, Initiative 522 "would require most raw agricultural commodities, processed foods, and seeds and seed stocks, if produced using genetic engineering as defined, to be labeled as genetically engineered when offered for retail sale."
7. The Secretary of State then forwarded Initiative 522 to the Washington State Legislature pursuant to state law. Under state law, if the Legislature failed to act on Initiative 522 by the end of the 2013 legislative session, Initiative 522 would be submitted to Washington voters in November 2013.

1 8. The Legislature did not act on Initiative 522 within the time frames allotted by statute. The  
2 matter is now set on the November 5, 2013 General Election ballot.

3 **Political Committees Supporting and Opposing Initiative 522**

4 9. There are currently eight political committees registered with the PDC to support or oppose  
5 Initiative 522, seven supporting and one opposing.

6 10. The seven committees supporting Initiative 522 registered with the PDC on May 4, 2012  
7 (Label It Now); August 6, 2012 (GMO Right to Know); February 11, 2013 (Yes on 522);  
8 February 20, 2013 (EWG Yes); March 20, 2013 (Organic Consumers Fund); June 19, 2013  
9 (GMO Awareness); and September 10, 2013 (Farmers & Friends).

10 11. Currently, the one political committee registered to oppose Initiative 522 is No on 522,  
11 which registered with the PDC on January 15, 2013.

12 **Grocery Manufacturers Association's Opposition to Mandatory Labeling**

13 12. Following the 2012 defeat of a California ballot measure (Proposition 37) which was  
14 similar in purpose to Initiative 522, GMA staff and its Board of Directors ("GMA Board")  
15 began review and development of short- and long-term strategies to oppose mandatory  
16 labeling on products containing genetically engineered or modified organisms. GMA, its  
17 Board, and its members determined that a "long-term, thoughtful, strategically flexible  
18 approach" to product labeling issues was necessary at the local, state, and national levels.

19 13. In December 2012, following meetings of the GMA Government Affairs Council and  
20 GMA Board, the GMA Board directed GMA staff to conduct baseline polling in  
21 Washington State "to determine the viability of a campaign to defeat I-522." The GMA  
22 Board also directed GMA staff to "scope out a funding mechanism to address the GMO  
23 issue" "while better shielding individual companies from attack for providing funding." At  
24 the same time, the GMA Board directed GMA staff to prepare to oppose "efforts to require  
25 mandatory GMO labels: a. Fight Washington State Ballot Measure" and "begin  
26 preparations for a campaign, . . . to defeat I-522, the Washington State Ballot measure."

1 14. In January 2013, GMA staff presented the GMA Board with options for addressing "GMO  
2 Labeling Post Prop 37." The GMA Board discussion included discussion of Initiative 522,  
3 an estimated cost for a campaign to defeat Initiative 522, and consideration of GMA  
4 members' "appetite to mount a campaign to defeat the Washington State Measure."

5 15. At its January 19, 2013 meeting, the GMA Board supported a "multipronged" approach to  
6 mandatory labeling issues and directed GMA staff to "oppose all state efforts" to impose  
7 mandatory labeling by engaging in a state-by-state campaign.

8 16. Also at its January 19, 2013 meeting, the GMA Board expressed a desire to plan for  
9 funding long-term GMA goals with "a preference for GMA to be the funder of such efforts,  
10 rather than individual companies."

11 17. In a February 18, 2013 memorandum to the GMA Board, GMA's Chief Executive Officer  
12 Pamela G. Bailey proposed a cost estimate for the multi-pronged approach to labeling  
13 issues, which included the cost to "fight Washington State Ballot Measure" in 2013. CEO  
14 Bailey also included in her memorandum the establishment of a separate GMA fund that  
15 would "allow for greater planning for the funds to combat current threats and better shield  
16 individual companies from attack that provide funding for specific efforts." The fund  
17 would allow GMA to be identified as the source of funding for efforts that included  
18 defeating Initiative 522.

19 18. GMA named the fund the "Defense of Brand Strategic Account" ("Account") and  
20 determined that it would be funded from an assessment to GMA members separate from  
21 their normal association dues. The Account would be segregated from other GMA funds.  
22 GMA expressed its intent that GMA's opposition to a mandatory labeling program would  
23 be paid for from the Account. GMA also originally set a three-year period for this  
24 program, running from 2013 through 2015. GMA anticipated a number of different actions  
25 would be taken regarding the mandatory labeling issue, including opposition to the pending  
26 Initiative 522.

1 19. Following GMA Board approval in January and February 2013, GMA staff sent invoices  
2 for the Account to GMA members in March and August 2013. Goals identified for the  
3 Account included to "defeat ballot measures" and continue to "oppose all state measures."  
4 20. GMA identified the portion of 2013 Account budget to be allotted to oppose Initiative 522  
5 was \$10,000,000.  
6 21. On March 15, 2013, CEO Bailey sent a memorandum to GMA members with the first  
7 Account invoice. In addition to a description of the purpose of the Account, Ms. Bailey  
8 provided GMA members an "Update on Washington State," which described GMA efforts  
9 to "assess the viability of a campaign to defeat I-522" and the results of GMA's polling  
10 efforts. Ms. Bailey further advised GMA members that "[m]uch like California, [the  
11 opposition to Initiative 522] campaign will be challenging." She then promised to provide  
12 updates to GMA members about "our progress on the Washington State efforts."  
13 22. The March Account invoice further described the amount GMA billed its members as a  
14 "contribution" for its 2013 Defense of Brands Strategic Account and was the first of two  
15 installments with a due date of April 15, 2013.  
16 23. On May 8, 2013, the No on 522 political committee reported receiving a contribution from  
17 GMA in the amount of \$472,500. GMA also identified to its membership that the  
18 \$472,500 contribution made to the No on 522 political committee came from funds  
19 collected from GMA members for the Defense of Brands Strategic Account.  
20 24. On or about August 13, 2013, GMA sent the next invoice to GMA members for the second  
21 installment to the 2013 Defense of Brands Strategic Account, again labeling the installment  
22 as a contribution to the Account.  
23 25. On or about August 23, 2013, GMA contributed \$1,750,000 to the No on 522 political  
24 committee from its Defense of Brands Strategic Account.  
25 26. On or about September 27, 2013, GMA contributed \$5,000,000 to the No on 522 political  
26 committee from its Defense of Brands Strategic Account.

1 27. All the funds used for GMA's contributions to the No on 522 political committee came  
2 from its Defense of Brands Strategic Account.

3 28. As of October 7, 2013, GMA has accumulated \$13,480,500 from GMA members  
4 contributions to the Account. Of that amount collected, GMA spent a total of \$7,222,500  
5 in contributions to the No on 522 political committee to oppose Washington's Initiative  
6 522.

## 7 V. CLAIMS

8 Based on the foregoing factual allegations and information and belief available to date,  
9 the State makes the following claims, each of which may give rise to multiple violations of  
10 RCW 42.17A.

11 1. First Claim: The State reasserts the factual allegations made above and further asserts  
12 that Defendant GMA, in violation of RCW 42.17A.205, failed to register as a political  
13 committee within two weeks after the date it first had the expectation of receiving  
14 contributions or making expenditures in the election campaign to oppose Initiative 522.

15 2. Second Claim: The State reasserts the factual allegations made above and further asserts  
16 that Defendant GMA, in violation of RCW 42.17A.210 and RCW 42.17A.215, failed to  
17 identify a treasurer for its political committee and a depository for its funds.

18 3. Third Claim: The State reasserts the factual allegations made above and further asserts  
19 that Defendant GMA, in violation of RCW 42.17A.235, .240 and .245, failed to regularly,  
20 timely, and electronically report the financial activities of its political committee, including  
21 identifying the sources of the contributions it received to make its expenditures to the No  
22 on 522 political committee to oppose Initiative 522.

23 4. Fourth Claim: The State reasserts the factual allegations made above and further asserts  
24 that Defendant GMA, in violation of RCW 42.17A.435, acted to conceal the true sources of  
25 funding for its electoral activities in opposing Initiative 522, including contributions it  
26

1 received from GMA members and the contributions it made to the No on 522 political  
2 committee.

- 3 5. Fifth Claim: The State reasserts the factual allegations made above and further asserts  
4 that the actions of Defendant GMA stated in the above claims were negligent and/or  
5 intentional.

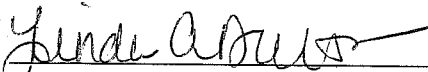
6 I. VI. RELIEF REQUESTED

7 WHEREFORE, the State hereby requests that the following relief as provided by  
8 RCW 42.17A:

- 9 1. Assess a penalty against Defendant GMA for its failures to timely and properly comply  
10 with the above identified provisions of RCW 42.17A;  
11 2. Compel Defendant GMA to register and report the financial transactions related to the  
12 operation of its Defense of Brands Strategic Account as provided for in RCW 42.17A;  
13 3. Order Defendant GMA to pay all costs of investigation and trial, including reasonable  
14 attorneys fees, as authorized by RCW 42.17A.765(5);  
15 4. In the event the Court finds Defendant GMA intentionally violated state campaign  
16 finance disclosure laws, order any penalty assessed against Defendant GMA to be  
17 trebled as authorized by RCW 42.17A.765(5); and  
18 5. Grant such additional and further relief as the Court deems appropriate.

19 Dated this 16th day of October, 2013.

20  
21 Respectfully submitted,  
22 ROBERT W. FERGUSON  
Attorney General

23   
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